IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.25377 of 2018

Manikandan .. Petitioner(Accused)

Vs

State rep. by
1.Inspector of Police,
All Women Police Station, Thudiyalur,
Coimbatore District. ..1st Respondent (Complainant)
Crime No.277 of 2016

2.Rajasekar .. 2nd Respondent (Defacto Complainant)
3.Sindhuja .. 3rd Respondent/Victim

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records relating to SPL.C.C.No.30 of 2017 on the file of the Special Judge Mahila Neethimandram, Coimbatore and quash the same.

For Petitioner : Mr.P.Kalimuthu
For 1st Respondent : Mrs.M.Prabavathi, APP

O R D E R

On the complaint lodged by Rajasekar, the respondent police registered a case in Crime No.277 of 2016 on 03.06.2016 under Section 366(A) IPC against Manikandan. It is the case of the de facto complainant that, Manikandan has kidnapped his daughter Sindhuja, aged about 16 years. After registration of the FIR, the Police arrested Manikandan and secured Sindhuja. The FIR was altered and provisions of POCSO Act was included. After completing the investigation, the Police has filed Charge Sheet in Special C.C. No.30 of 2017, before the Special Judge, Mahila Court, Coimbatore against Manikandan for the offences under Section 366(A) IPC r/w 3(a) r/w 4, 5(j) r/w 6 of POCSO Act, for quashing which, this petition has been filed on the ground that Manikandan has married Sindhuja.

2.Today, Mr.Rajasekar (de facto complainant), Sindhuja (Victim girl) and Manikandan are present before this Court and they are identified by Mr.P.Kalimuthu, learned counsel for the petitioner, Enrolment No.989/1992.

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The parties stated that Manikandan has married Sindhuja and they have one child through the wedlock.

3.Sindhuja and Rajasekar have filed an affidavit dated 31.10.2018, wherein, in paragraph Nos.3, 4 and 5, it is stated as follows:

> "3.I submit that we have arrived compromise and I and my father who is de facto complainant is ready to withdraw the complaint. Now I am attained majority and the marriage was already done and there is also a male child now aged 2 years. Now I and my husband happily living as husband and wife with their son Prithvik aged about 2 years in the above mentioned petitioner's house. That the proof is also enclosed that both the victim girl and the petitioner are major. Hence at this stage it is just and necessary to pass a compromise memo and both the parties arrived at the conclusion they are amicable settled the issued arising thereof.
>
> 4.I submit that birth certificate of male child M.Prithvik son of Manikandan, Mother of Sindhuja which is shows that I am living in the matrimonial home with the petitioner/accused.
>
> 5.I submit that now I am willing to drooping further legal proceeding against my husband /the petitioner. After the completion of investigation, challan has been presented in the Court against the petitioner and charges have also been framed. Now the case is pending before the Trial Court, Coimbatore, for evidence. During the pendency of trial proceedings, the matter has been compromised between us with the intervention of the well wisher. It is clear from the above that 2 years after the incident, we are already compromised the matter with intervention of the well wisher."

4.Under normal circumstances, this Court would loath to quash a prosecution under POCSO Act, just because, the parties have arrived at a compromise. In this case, even in the statement recorded by the Magistrate under Section 164 Cr.P.C. on 02.09.2016, Sindhuja has stated that she had gone on her own volition with Manikandan as she was in love with him.

In view of the above, this petition is allowed and the prosecution against the accused in SPL.C.C.No.30 of 2017 on the file of the Special Judge Mahila Neethimandram, Coimbatore is hereby quashed.

dua/gya

Sd/-

Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

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To
1. Special Judge Mahila Neethimandram,
Coimbatore.

2.Inspector of Police,
All Women Police Station, Thudiyalur,
Coimbatore District.
Crime No.277 of 2016

2.The Public Prosecutor,
High Court, Madras.

CRL.OP.No.25377 of 2018

ASK(27/11/2018)

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